

PETITION FOR ZONING RE-CLASSIFICATION **SPECIAL EXCEPTION AND/OR VARIANCE**

TO THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition (1) that the zoning status of the herein described property be re-classified, pursuant to the Zoning Law of Baltimore County, from an M.L. zone to an D.R. 16 zone, for the reasons given in the attached statement; and (2) for a Special Exception, under the said Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property for _____

and (3) for the reasons given in the attached statement, a variance from the following sections of the Zoning Law and Zoning Regulations of Baltimore County.

RECEIVED
 BALTIMORE COUNTY
 BOARD OF APPEALS
 AUG 31 2 31 PM '82
 BY: J. J. JENNINGS

Property is to be posted and advertised as prescribed by The Baltimore County Code.

I, or we, agree to pay expenses of above Re-classification, Special Exception and/or Variance, printing, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser:
 (Type or Print Name) _____
 Signature _____
 Address _____
 City and State _____
Attorney for Petitioner:
 John B. Howard
 (Type or Print Name) _____
 Signature _____
 P.O. Box 5517, 210 Allegheny Ave.
 Address _____
 Towson, Maryland 21204
 City and State _____
 Attorney's Telephone No.: (301) 823-4111

Legal Owner(s):
 John E. Davis
 (Type or Print Name) _____
 Signature _____
 Martha N. Davis
 (Type or Print Name) _____
 Signature _____
 1927 Old Eastern Ave. 686-4375
 Address _____ Phone No. _____
 Baltimore, Maryland 21221
 City and State _____
 Name, address and phone number of legal owner, contract purchaser or representative to be contacted
 John B. Howard
 Name _____
 P.O. Box 5517, 210 Allegheny Ave.
 Address _____
 Towson, Maryland 21204
 City and State _____ Phone No. _____

BANC-PW-1

RE: PETITION FOR RECLASSIFICATION : BEFORE THE COUNTY BOARD OF APPEALS
 from M.L. to D.R. 16 Zone
 SE/S Old Eastern Avenue 150' : OF BALTIMORE COUNTY
 SE of Eastern Boulevard,
 15th District :

JOHN E. DAVIS, et ux, Petitioners : Case No. R-83-198 (Item 11, Cycle IV)

ORDER TO ENTER APPEARANCE

To the Honorable, Members of Said Board:

Pursuant to the authority contained in Section 524.1 of the Baltimore County Charter, I hereby enter my appearance in this proceeding. You are requested to notify me of any hearing date or dates which may be now or hereafter designated therefor, and of the passage of any preliminary or final Order in connection therewith.

Peter Max Zimmerman
 Deputy People's Counsel
 John W. Hession, III
 People's Counsel for Baltimore County
 Rm. 223, Court House
 Towson, Maryland 21204
 494-2188

I HEREBY CERTIFY that on this 25th day of January, 1983,
 a copy of the foregoing Order was mailed to John B. Howard, Esquire, P.O. Box 5517,
 210 Allegheny Avenue, Towson, Maryland 21204, Attorney for Petitioners.

John W. Hession, III

PETITION AND SITE PLAN

EVALUATION COMMENTS

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE November 4, 1982

COUNTY OFFICE BLDG.
 121 W. Chesapeake Ave.
 Towson, Maryland 21204
 300
 Nicholas B. Commodari
 Chairman

MEMBERS
 Bureau of Engineering
 Department of Traffic Engineering
 State Roads Commission
 Bureau of Fire Prevention
 Health Department
 Project Planning
 Building Department
 Board of Education
 Zoning Administration
 Industrial Development

John B. Howard, Esquire
 P.O. Box 5517
 210 Allegheny Avenue
 Towson, Maryland 21204

RE: Item No. 11 - Cycle No. IV
 Petitioner - John E. & Martha N. Davis
 Reclassification Petition

Dear Mr. Howard:

This reclassification petition has been timely filed with the Board of Appeals for a public hearing within the October-April reclassification cycle (Cycle IV). It has been reviewed by the zoning office as to form and content and has also been reviewed by the Zoning Plans Advisory Committee. The review and enclosed comments from the Committee are intended to provide you and the Board of Appeals with an insight as to possible conflicts or problems that could arise from the requested reclassification or uses and improvements that may be specified as part of the request. They are not intended to indicate the appropriateness of the zoning action requested.

If it has been suggested that the petition forms, descriptions, briefs, and/or the site plans be amended so as to reflect better compliance with the zoning regulations and/or commenting agencies' standards and policies, you are requested to review these comments, make your own judgement as to their accuracy and submit the necessary amendments to this office before Monday, November 29, 1982. In the event that any requested amendments are not received prior to this date, the petition will be advertised as originally submitted.

The subject property, zoned M.L. and proposed to be reclassified to a D.R. 16 zone, is currently improved with a one and one-half story dwelling and office. Surrounding properties to the west and north are improved with an ice company and commercial uses, respectively, while the Middle River exists to the south and east.

I have had a number of conversations with your surveyor, Mr. John Etzel, concerning possible development of this property. My suggestion to him was to arrange a meeting with you, Mr. Dyer, and myself to discuss any changes to the petition forms and/or site plans that could be required.

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

December 6, 1982

COUNTY OFFICE BLDG.
 121 W. Chesapeake Ave.
 Towson, Maryland 21204

Nicholas B. Commodari
 Chairman

MEMBERS
 Bureau of Engineering
 Department of Traffic Engineering
 State Roads Commission
 Bureau of Fire Prevention
 Health Department
 Project Planning
 Building Department
 Board of Education
 Zoning Administration
 Industrial Development

John B. Howard, Esquire
 P.O. Box 5517
 210 Allegheny Avenue
 Towson, Maryland 21204

RE: Item No. 11 - Cycle No. IV
 Petitioner - John E. & Martha Davis
 Reclassification Petition

Dear Mr. Howard:

Enclosed please find addendum comments for the above referenced case.

Very truly yours,

Nicholas B. Commodari
 Chairman
 Zoning Plans Advisory Committee

NBC:bsc

Enclosure

cc: Gerhold, Cross & Etzel
 412 Delaware Avenue
 Towson, Maryland 21204

BALTIMORE COUNTY
 OFFICE OF PLANNING AND ZONING
 TOWSON, MARYLAND 21204
 494-3211
 NORMAN E. GERBET
 DIRECTOR

December 3, 1982

Mr. William T. Hackett, Chairman
 Board of Appeals
 Room 219- Court House
 Towson, Maryland 21204

Dear Mr. Hackett:

Comments on Item #11, Zoning Advisory Committee Meeting, Zoning Cycle IV - 1982, September 14, 1982, are as follows:

Property Owner: John E. & Martha N. Davis
 Location: SE/S Old Eastern Avenue 150' S/E of Eastern Blvd
 Acres: 0.94
 District: 15th

This office has reviewed the subject petition and offers the following comments. These comments are not intended to indicate the appropriateness of the zoning in question, but are to assure that all parties are made aware of plans or problems with regard to development plans that may have a bearing on this petition.

If the petition is granted the developer must comply with Bill 36-82 (Baltimore County Development Regulations).

Very truly yours,

John L. Wimbley
 Planner III
 Current Planning & Development

JLW:rh

Item No. 11 - Cycle No. IV
 Petitioner - John E. & Martha N. Davis
 Reclassification Petition

In view of the fact that the submitted site plan does not indicate a proposed development, the enclosed comments from this Committee are general in nature. If the requested reclassification is granted, more detailed comments from County agencies and the Committee (if a hearing is required) will be written when a proposed development is indicated. Any residential development of this property will be subject to the requirements of Bill No. 56-82. For further information concerning this, you may contact Mr. Jack Wimbley at 494-3335.

You may call me at 494-3391 in order to arrange the aforementioned meeting and to discuss any questions concerning the enclosed comments. Notice of the specific hearing date which will be between March 1 and June 30, 1983, will be forwarded to you in the future.

Very truly yours,

Nicholas B. Commodari
 Chairman
 Zoning Plans Advisory Committee

NBC:bsc

Enclosures

cc: Gerhold, Cross & Etzel
 412 Delaware Avenue
 Towson, Maryland 21204

BALTIMORE COUNTY
 DEPARTMENT OF PUBLIC WORKS
 TOWSON, MARYLAND 21204

HARRY J. PHILLIPS
 DIRECTOR

October 14, 1982

Mr. William T. Hackett, Chairman
 Board of Appeals
 Court House
 Towson, Maryland 21204

Re: Item #11 Zoning Cycle IV (Oct. 1982-Apr. 1983)
 Property Owner: John E. & Martha N. Davis
 S/ES Old Eastern Avenue 150' S/E of Eastern Blvd.
 Existing Zoning: M.L.
 Proposed Zoning: D.R. 16
 Acres: 0.94
 District: 15th

Dear Mr. Hackett:

The following comments are furnished in regard to the plat submitted to this office for review by the Zoning Advisory Committee in connection with the subject item.

Highways:

Eastern Boulevard (MD. 150) is a State Road; therefore, all improvements, intersections, entrances and drainage requirements as they affect the road come under the jurisdiction of the Maryland State Highway Administration. Any utility construction within the State Road right-of-way will be subject to the standards, specifications and approval of the State in addition to those of Baltimore County.

Old Eastern Avenue, formerly a State Road, is improved on a 60-foot right-of-way in the vicinity of this property.

The entrance locations are subject to approval by the Department of Traffic Engineering, and shall be constructed in accordance with Baltimore County Standards and Specifications.

Sediment Control:

Development of this property through stripping, grading and stabilization could result in a sediment pollution problem, damaging private and public holdings downstream of the property. A grading permit is, therefore, necessary for all grading, including the stripping of top soil.

Storm Drains:

Provisions for accommodating storm water or drainage have not been indicated on the submitted plan.

Item #11 Zoning Cycle IV (Oct. 1982-Apr. 1983)
Property Owner: John E. & Martha N. Davis
Page 2
October 14, 1982

Storm - (Cont'd)

The Petitioner must provide necessary drainage facilities (temporary or permanent) to prevent creating any nuisances or damages to adjacent properties, especially by the concentration of surface waters. Correction of any problem which may result, due to improper grading or improper installation of drainage facilities, would be the full responsibility of the Petitioner.

The property to be developed is located adjacent to tidewater. The Petitioner is advised that the proper sections of the Baltimore County Building Code must be followed whereby elevation limitations are placed on the lowest floor (including basements) of residential and commercial development.

Water and Sanitary Sewer:

Public water supply and sanitary sewerage exist in Old Eastern Avenue.

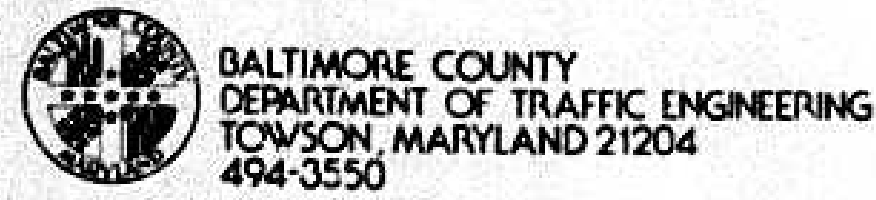
Very truly yours,

Robert A. Morton
ROBERT A. MORTON, P.E., Chief
Bureau of Public Services

RAM:EAM:FOR:iss

cc: Jack Wimbley

1-NE Key Sheet
11 NE 33 Pos. Sheet
NE 31 Topo
90 Tax Map



STEPHEN E. COLLINS
DIRECTOR

November 1, 1982

Mr. William Hackett
Chairman, Board of Appeals
Office of Law, Courthouse
Towson, Maryland 21204

Cycle IV - Meeting of September 14, 1982
Item No. - 11
Property Owner: John E. and Martha N. Davis
Location: SE/S Old Eastern Avenue 150ft. S/E of
Eastern Boulevard
Existing Zoning: M.L.
Proposed Zoning: D.R. 16
Acres: 0.94
District: 15th

Dear Mr. Hackett:

There is no major difference in trip generation for the existing zoning and the proposed zoning.

This site is located in a commuter zone with a "Z" level of service intersection; Back River Neck Road - Eastern Avenue and Stemmers Run Road.

Michael S. Flanigan
Michael S. Flanigan
Traffic Engineer II

MSF/ccm



DONALD L. ROOP, M.D., M.P.H.
DEPUTY STATE & COUNTY HEALTH OFFICER

September 27, 1982

Mr. William Hackett, Chairman
Board of Appeals
Court House
Towson, Maryland 21204

Dear Mr. Hackett:

Comments on Item #11, Cycle IV Meeting, September 14, 1982, are as follows:

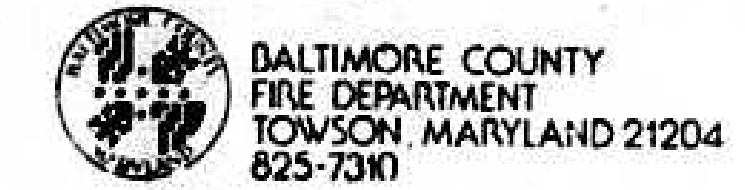
Property Owner: John E. & Martha N. Davis
Location: SE/S Old Eastern Avenue 150' S/E of Eastern Blvd.
Existing Zoning: M.L.
Proposed Zoning: D.R. 16
Acres: 0.94
District: 15th

The existing dwelling is presently served by metropolitan water and a private septic system which is failing, discharging sewage to the ground surface. Metropolitan sewer is available to serve the property, therefore the dwelling must be connected to public sewer and the septic system properly backfilled.

Very truly yours,

Ian J. Forrest
Ian J. Forrest, Director
BUREAU OF ENVIRONMENTAL SERVICES

RECEIVED
BALTIMORE COUNTY
OCT 11 9 01 AM '82
COMMUNITY SERVICES
BY: [initials]



PAUL H. KERNICK
CHIEF

September 29, 1982

Mr. William Hammond cc: William Hackett
Zoning Commissioner Chairman of Board of Appeals
Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204

Attention: Nick Commodari, Chairman
Zoning Plans Advisory Committee

RE: Property Owner: John E. and Martha N. Davis

Location: SE/S Old Eastern Avenue 150' S/E of Eastern Blvd.

Item No.: 11

Zoning Agenda: Meeting of September 14, 1982

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

() 1. Fire hydrants for the referenced property are required and shall be located at intervals of _____ feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.

() 2. A second means of vehicle access is required for the site.

() 3. The vehicle dead end condition shown at _____

EXCEEDS the maximum allowed by the Fire Department.

() 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

(X) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1976 Edition prior to occupancy.

() 6. Site plans are approved, as drawn.

() 7. The Fire Prevention Bureau has no comments at this time.

REVIEWED BY: [initials]
Planning Group
Special Inspection Division

Noted and Approved: *George M. Hegardt*
Fire Prevention Bureau

JK/mb/cn

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

C/O Nicholas Commodari
TO: William T. Hackett, Chairman
BALTO. CO. BOARD OF APPEALS
FROM: Charles E. Burnham, Planning Review Chief
SUBJECT: Cycle Zoning IV, 1982

Item 11. John E. & Martha N. Davis

Any new structures, alterations, additions changes of use etc, shall require permits before proceeding. The applicable codes are the 1981 BOCA Basic Building Code, the 1981 BOCA Basic Mechanical Code, the 1981 BOCA Basic Energy Code and the 1979 one & two Family Code all as amended by County Council Bill #1-82, and the Code of Maryland Regulations 05.01.07 known as the State Handicapped Code.

This area may be in an area subject to Tidal inundation, this requires all floors including basements to be 1'-0" above the Flood Tidal and the elevation generally used is 10'-0". See section 519.0 as amended in 3111 1-82.

Elevations are not noted on the plan. It shall be the owners responsibility to show compliance at the time of permit application or the permit could be denied, or withheld.

Charles E. Burnham

BALTIMORE COUNTY PUBLIC SCHOOLS

Robert Y. Dubel, Superintendent

Towson, Maryland - 21204

Date: 9/17/82

Mr. William E. Hammond
Zoning Commissioner
Baltimore County Office Building
1111 West Chesapeake Avenue
Towson, Maryland 21204

Z.A.C. Meeting of: 9/14/82

RE: Item No: 11
Property Owner: John E. & Martha N. Davis
Location: SE/S Old Eastern Ave. 150' S/E Eastern Blvd.
Present Zoning: M.L.
Proposed Zoning: D.R. 16

District: 15th
No. Acres: 0.94

Dear Mr. Hammond:

Acresage too small to have bearing on student population.

Very truly yours,
Nick Petrovich
Mr. Nick Petrovich, Assistant
Department of Planning

WNP/bp

494-3180

County Board of Appeals

Room 219, Court House
Towson, Maryland 21204

June 9, 1983

John B. Howard, Esq.
P. O. Box 5517
210 Allegheny Ave.
Towson, Md. 21204

Dear Mr. Howard:

Re: Case No. R-83-198
John E. Davis, et ux

Enclosed herewith is a copy of the Opinion and Order passed today by the County Board of Appeals in the above entitled case.

Very truly yours,

John Holman
John Holman, Secretary

Encl.
cc: John E. Davis, et ux
J. W. Messian, Esq.
Board of Education
W. Hammond
J. Dyer
N. Garber
J. Maxwell

April 28, 1983

John B. Howard, Esquire
P. O. Box 5517
210 Allegheny Avenue
Towson, Maryland 21204

NOTICE OF HEARING

Re: Petition for Reconsideration
SE/S of Old Eastern Ave., 150' SW
of Eastern Boulevard
John E. Davis, et ux - Petitioners
Case No. R-83-198 Cycle IV - Item #11

TIME: 10:00 A.M.

DATE: Thursday, May 26, 1983

PLACE: Room 218, Courthouse, Towson, Maryland

cc: People's Council

William T. Hackett
William T. Hackett, Chairman
County Board of Appeals

August 30, 1982

Zoning Description

All that piece or parcel of land situate, lying and being in the Fifteenth Election District of Baltimore County, State of Maryland and described as follows to wit:

Beginning for the same at a point in the center of Old Eastern Avenue distant Southwesterly 150 feet measured along the center of said Old Eastern Avenue from the southeast side of Eastern Boulevard and thence running and binding in the center of Old Eastern Avenue, South 39 degrees 06 minutes West 83 feet, thence leaving said Old Eastern Avenue and binding on the property lines of the petitioners herein, the three following courses and distances viz: South 2 degrees 02 minutes West 98 feet, South 47 degrees 48 minutes East 35.9 feet and North 64 degrees 15 minutes East 105 feet to the water of Middle River, thence binding on the waters of Middle River, the four following courses and distances viz: North 26 degrees 30 minutes West 90 feet, North 37 degrees 30 minutes East 186.67 feet, North 23 degrees 00 minutes West 93.30 feet and North 43 degrees 00 minutes West 20 feet and thence running to and binding in the Old Eastern Avenue, South 39 degrees 06 minutes West 194.4 feet to the place of beginning.

Containing 0.94 of an Acre of land more or less.

Being the property of the petitioners herein and shown on a plat filed in the office of the Zoning Commissioner.



PETITION FOR RECLASSIFICATION

15th Election District

ZONING: Petition for Reclassification
LOCATION: Southeast side of Old Eastern Avenue, 150 ft. Southwest of Eastern Boulevard
DATE & TIME: Thursday, May 26, 1983 at 10:00 A.M.
PUBLIC HEARING: Room 218, Courthouse, Towson, Maryland
The County Board of Appeals for Baltimore County, by authority of the Baltimore County Charter, will hold a public hearing:
Present Zoning: M.L.
Proposed Zoning: D.R. 16

All that parcel of land in the Fifteenth District of Baltimore County

Being the property of John E. Davis, et ux, as shown on plat plan filed with the Zoning Department.

Hearing Date: Thursday, May 26, 1983 at 10:00 A.M.
Public Hearing: Room 218, Courthouse, Towson, Maryland

BY ORDER OF
WILLIAM T. HACKETT, CHAIRMAN
COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

PETITION FOR RECLASSIFICATION

15th Election District

ZONING: Petition for Reclassification
LOCATION: Southeast side of Old Eastern Avenue, 150 ft. Southwest of Eastern Boulevard
DATE & TIME: Thursday, May 26, 1983 at 10:00 A.M.
PUBLIC HEARING: Room 218, Courthouse, Towson, Maryland
The County Board of Appeals for Baltimore County, by authority of the Baltimore County Charter, will hold a public hearing:
Present Zoning: M.L.
Proposed Zoning: D.R. 16

All that parcel of land in the Fifteenth District of Baltimore County

The appropriateness of the requested downshift in zoning is readily apparent when one considers the zoning of the surrounding properties. Contiguous to the southeastern border of the ML Zone which contains the subject property is a tract zoned DR-5.5, which in turn, is bordered by a tract zoned DR-16; contiguous and immediately to the west, across Old Eastern Avenue, is a tract zoned BL; directly across Eastern Boulevard is a tract zoned DR-16; and across Middle River, to the east of the subject property, are tracts zoned DR-5.5 and DR-10.5.

Under the current ML designation, use of the subject property is confined to the existing, non-conforming use. However, for the foregoing reasons, the Petitioners are seeking to have the zoning downshifted to DR-16. The subject property is uniquely appropriate for development in compliance with the density residential zoning regulations, and such development would be entirely compatible with the surrounding area.

Respectfully submitted,

John B. Howard
John B. Howard
Cook, Howard, Downes & Tracy
210 Allegheny Avenue
P.O. Box 3517
Towson, Maryland 21204
301-823-4111
Attorney for the Petitioners

Being the property of John E. Davis, et ux, as shown on plat plan filed with the Zoning Department.

Hearing Date: Thursday, May 26, 1983 at 10:00 A.M.
Public Hearing: Room 218, Courthouse, Towson, Maryland

BY ORDER OF
WILLIAM T. HACKETT, CHAIRMAN
COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

IN THE MATTER OF
THE PETITION OF
JOHN E. DAVIS and
MARTHA N. DAVIS, his wife,
Property Owners
For Reclassification from
ML to DR-16 of
0.94 Acres, more or less,
Located on the S/E Side of
Old Eastern Avenue, Near the
Intersection of Eastern Boulevard
Baltimore County, Maryland

* BEFORE THE
* COUNTY BOARD
* OF APPEALS
* FOR
* BALTIMORE COUNTY

MEMORANDUM IN SUPPORT OF PETITION FOR RECLASSIFICATION

The property which is the subject of this Petition is currently zoned ML. John E. and Martha N. Davis have been the fee owners of the subject 0.94 acre parcel since 1977. The property has been used as a residence since 1933, a non-conforming use under the Baltimore County Zoning Regulations. Since 1978, Mr. Davis has maintained a realty office in the basement of the residence, a permitted use in an ML Zone.

It is respectfully submitted that the requested reclassification from an ML Zone to DR-16 is mandated by reason of (i) error or mistake on the part of the Baltimore County Council during three Comprehensive Map enactments, and (ii) suitability of the subject property for residential development.

The subject property is part of a ML Zone comprised of approximately 3.5 acres. Excluding the Davis property, the remainder of the ML Zone is occupied by an ice manufacturing company.

September 27, 1982

Mr. William Hackett, Chairman
Board of Appeals
Court House
Towson, Maryland 21204

Dear Mr. Hackett:

Comments on Item #11, Cycle IV Meeting, September 14, 1982, are as follows:

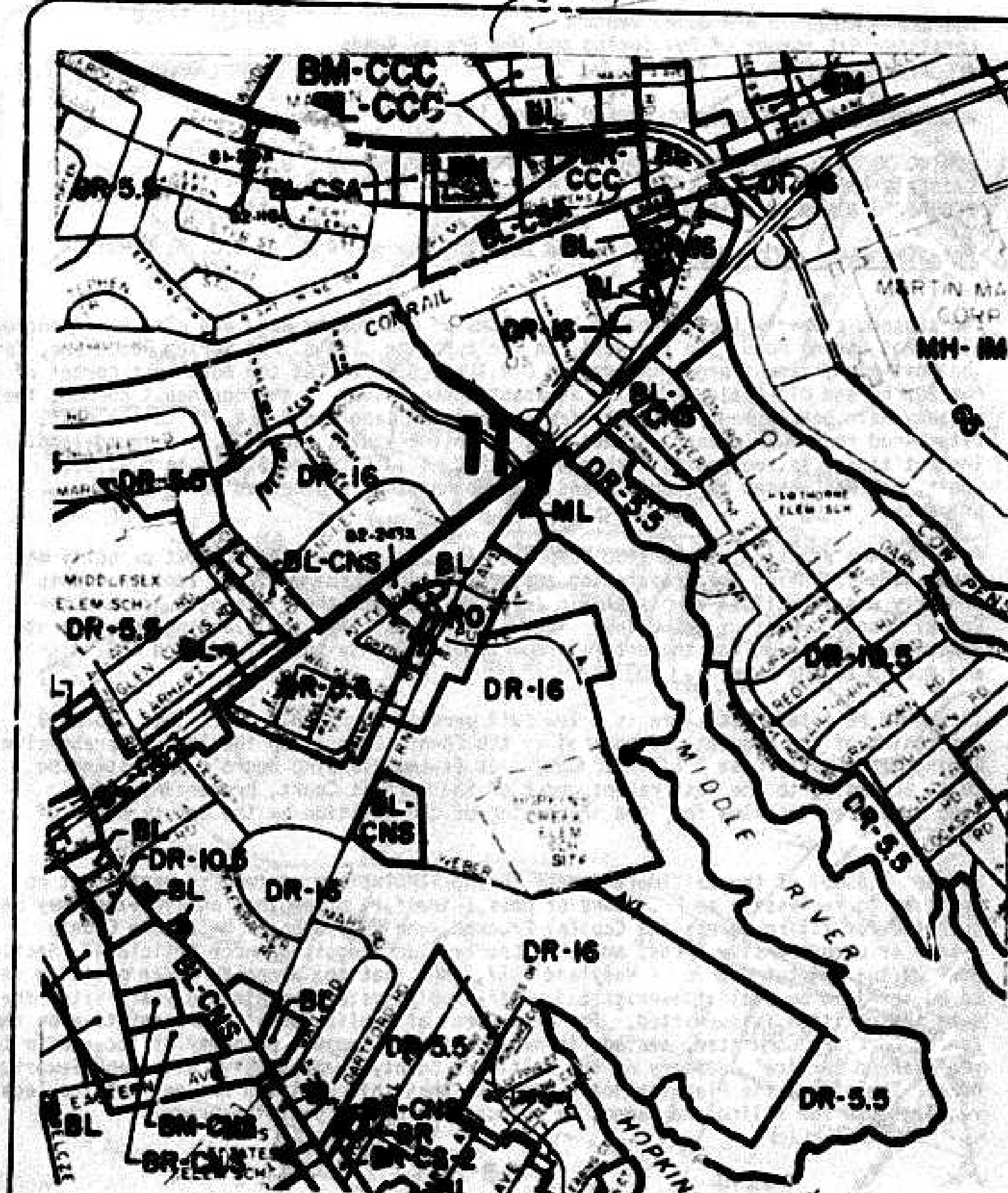
Property Owner: John E. & Martha N. Davis
Location: SE/4 Old Eastern Avenue 150' S/E of Eastern Blvd.
Existing Zoning: M.L.
Proposed Zoning: D.R. 16
Acres: 0.94
District: 15th

The existing dwelling is presently served by metropolitan water and a private septic system which is failing, discharging sewage to the ground surface. Metropolitan sewer is available to serve the property, therefore the dwelling must be connected to public sewer and the septic system properly backfilled.

Very truly yours,

Sam J. Forrest, Director
BUREAU OF ENVIRONMENTAL SERVICES

RECEIVED
BALTIMORE COUNTY
OCT 11 10 48 AM '82
COUNTY BOARD
OF APPEALS
BY: [Signature]



LOCATION OF PROPERTY UNDER PETITION
BASE MAP 48
SCALE 1" = 1000'



BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3033

WILLIAM E. HAMMOND
ZONING COMMISSIONER

May 17, 1983

John B. Howard, Esquire
P. O. Box 5517
210 Allegheny Avenue
Towson, Maryland 21204

Re: Petition for Reclassification
SE/8 of Old Eastern Ave., 190' SW of
Eastern Boulevard
John E. Davis, et ux - Petitioners
Case No. R-83-198 Cycle IV - Item #11

Dear Mr. Howard:

This is to advise you that \$344.38 is due for advertising and posting of the above property.

Please make the check payable to Baltimore County, Maryland, and remit to Arlene January, Zoning Office, Room 113, County Office Building, Towson, Maryland 21204, before the hearing.

Very truly yours,

W. E. HAMMOND
Commissioner

No. 117640

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

DATE June 9, 1983 ACCOUNT R-01-515-000

AMOUNT \$344.08

RECEIVED Davis Brothers Realty
FOR Advertising & Posting Case No. R-83-198
FOR John E. Davis, et ux

127*****3440810 5102A

VALIDATION OR SIGNATURE OF CASHIER

ITEM NO. 11

PROPERTY OWNER: John E. and Martha N. Davis ACREAGE: 0.9
LOCATION: SE/8 of Old Eastern Avenue, 60' S/E of Eastern Boulevard
ELECTION DISTRICT: 15 COUNCILMANIC DISTRICT: 5

RECOMMENDED DATE OF HEARING: Week of May 23, 1983

ZONING PRIOR TO ADOPTION OF 1980 COMPREHENSIVE ZONING MAP: M.L.
EXISTING ZONING: M.L.
REQUESTED ZONING: D.R. 16

PLANNING BOARD RECOMMENDATION: Retain Existing Zoning (M.L.)

This property, located on Old Eastern Avenue, is currently being used for residential and office uses. Adjacent to the subject site are non-residential uses on properties zoned M.L. and B.L., and Middle River. The petitioner is requesting a change from M.L. to D.R. 16 and has chosen to submit plans that do not show a proposed use for the property.

Prior to the adoption of the 1980 Comprehensive Zoning Map, the subject property was zoned M.L. The zoning of the site was not identified as a specific issue before either the Planning Board or the County Council during the preparation and processing of this map; the County Council reaffirmed M.L. zoning here.

The Planning Board believes that the existing zone is appropriate and that the zoning map is correct. Further, the Board is of the opinion that, in view of the existing adjacent uses, the subject site would not be a desirable location for residential development.

It is therefore recommended that the existing zoning, M.L., be retained.

IN THE MATTER OF THE APPLICATION OF JOHN E. and MARTHA N. DAVIS FOR REZONING OF PROPERTY LOCATED ON THE SOUTHEAST SIDE OF OLD EASTERN AVE., 150 FT. SOUTHEAST OF EASTERN BOULEVARD
From M.L. to D.R. 16
15th District

BEFORE
COUNTY BOARD OF APPEALS
OF
BALTIMORE COUNTY
No. R-83-198

OPINION

This matter comes before this Board on a petition for reclassification of property located on the southeast side of Old Eastern Avenue, 150 ft. southwest of Eastern Boulevard. The subject property is presently classified M.L. and Petitioner requests classification of D.R. 16. This matter was heard in its entirety on May 26, 1983.

John Davis, owner of the subject property, testified that the lot in question consists of .92 acres and is improved by a residential house which is also used as a real estate and tax office. Mr. Davis indicated that he purchased the property in 1977 and has continued to occupy the property as a residence with auxiliary office use since that time. Mr. Davis testified that the current M.L. zoning is impractical because of the small size of this property, the unusual shape of this property and the severe topography. He further testified that it would not be economically feasible to expand the present office use of this property because of the shortage of land and the difficulty of access to Eastern Avenue.

This Board next received testimony from Harry Homey, who lives directly across the river from Petitioner and is the owner of 5.5 acres there situated. Mr. Homey testified that in his opinion, the proper use of the property would be residential because of the surrounding residential properties which already exist. He further testified that if manufacturing type improvements or offices were constructed on the property that it would lower the values of the surrounding homes and create severe traffic problems on Eastern Avenue.

Petitioner's last witness, John Etzel, is a professional land surveyor in Baltimore County. Mr. Etzel testified that Petitioner enjoys no reasonable or practical

John E. and Martha N. Davis
Case No. R-83-198

use of the subject property because of its M.L. zoning. Mr. Etzel was of the opinion that the sloping topographical design of the subject property would make any uses allowed in M.L. zones impractical. Mr. Etzel further testified that the failure to classify the subject property as residential was error because of the surrounding residential land and because a large portion of the subject property is unimproved.

James G. Hoswell, Planner for Baltimore County, testified that in his opinion the present zoning does not constitute error and that a reasonable use exists for the subject property. Mr. Hoswell testified that in the immediate vicinity of the subject property numerous commercial uses exist, such as, an ice house, which is located next door and many non-residential uses on Eastern Boulevard. He further testified that the subject property enjoys a reasonable use consistent with its present use as a home and offices. Mr. Hoswell also submitted for the review of this Board recommendations of the Planning Board, dated May 23, 1983, which in pertinent part states as follows:

"This property, located on Old Eastern Avenue, is currently being used for residential and office uses. Adjacent to the subject site are non-residential uses on properties zoned M.L. and B.L., and Middle River. The petitioner is requesting a change from M.L. to D.R. 16 and has chosen to submit plans that do not show a proposed use for the property.

Prior to the adoption of the 1980 Comprehensive Zoning Map, the subject property was zoned M.L. The zoning of the site was not identified as a specific issue before either the Planning Board or the County Council during the preparation and processing of this map; the County Council reaffirmed M.L. zoning here.

The Planning Board believes that the existing zone is appropriate and that the zoning map is correct. Further, the Board is of the opinion that, in view of the existing adjacent uses, the subject site would not be a desirable location for residential development.

It is therefore recommended that the existing zoning, M.L., be retained."

A significant portion of the testimony involved whether or not it is Board should view this property as being oriented toward Old Eastern Avenue or toward Middle River. Generally, the County's position (for purposes of setback and other restrictions) is that waterfront property be considered to have a frontage on the water instead of on the servicing road. Petitioner argues that this policy should have been taken into consideration in this case as well.

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In doing so, he argues that all property fronting on Middle River, with the exception of the subject property, is classified density residential and that as such this amounts to spot zoning. The Board is of the opinion that the property is more appropriately oriented toward Eastern Avenue. We believe so in view of the other commercial uses on Old Eastern Avenue, the location of this property to Eastern Boulevard, the size, dimensions and topography of the subject property. We point to the numerous photographs introduced as exhibits in this case that support this position.

The Board is of the opinion that the subject property enjoys a reasonable use presently and as such we cannot find that any error exists in the present classification of M.L. zoning. The petition is thus denied.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 9th day of June, 1983, by County Board of Appeals, ORDERED that the Petition for Reclassification from M.L. to D.R. 16 be and the same is hereby DENIED.

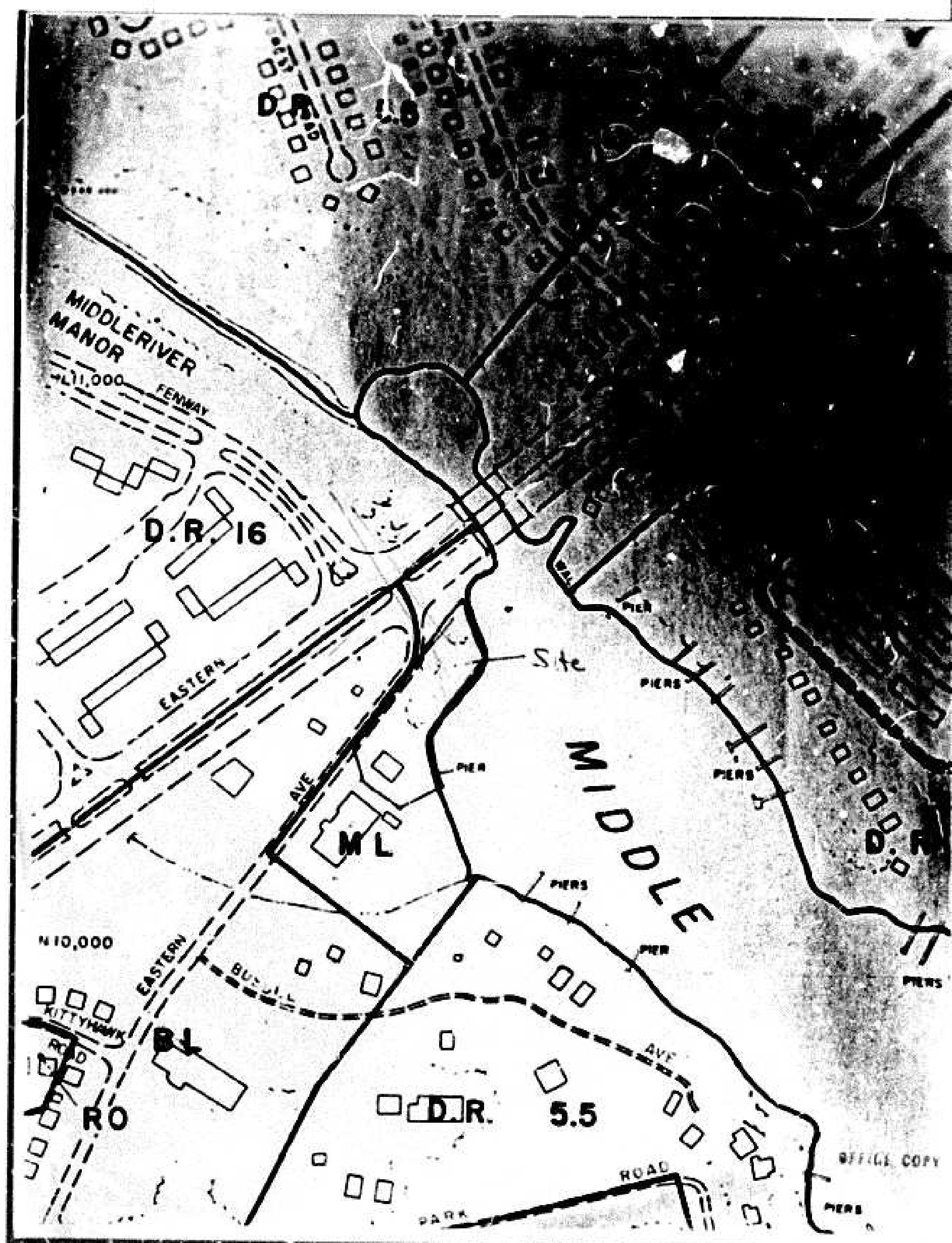
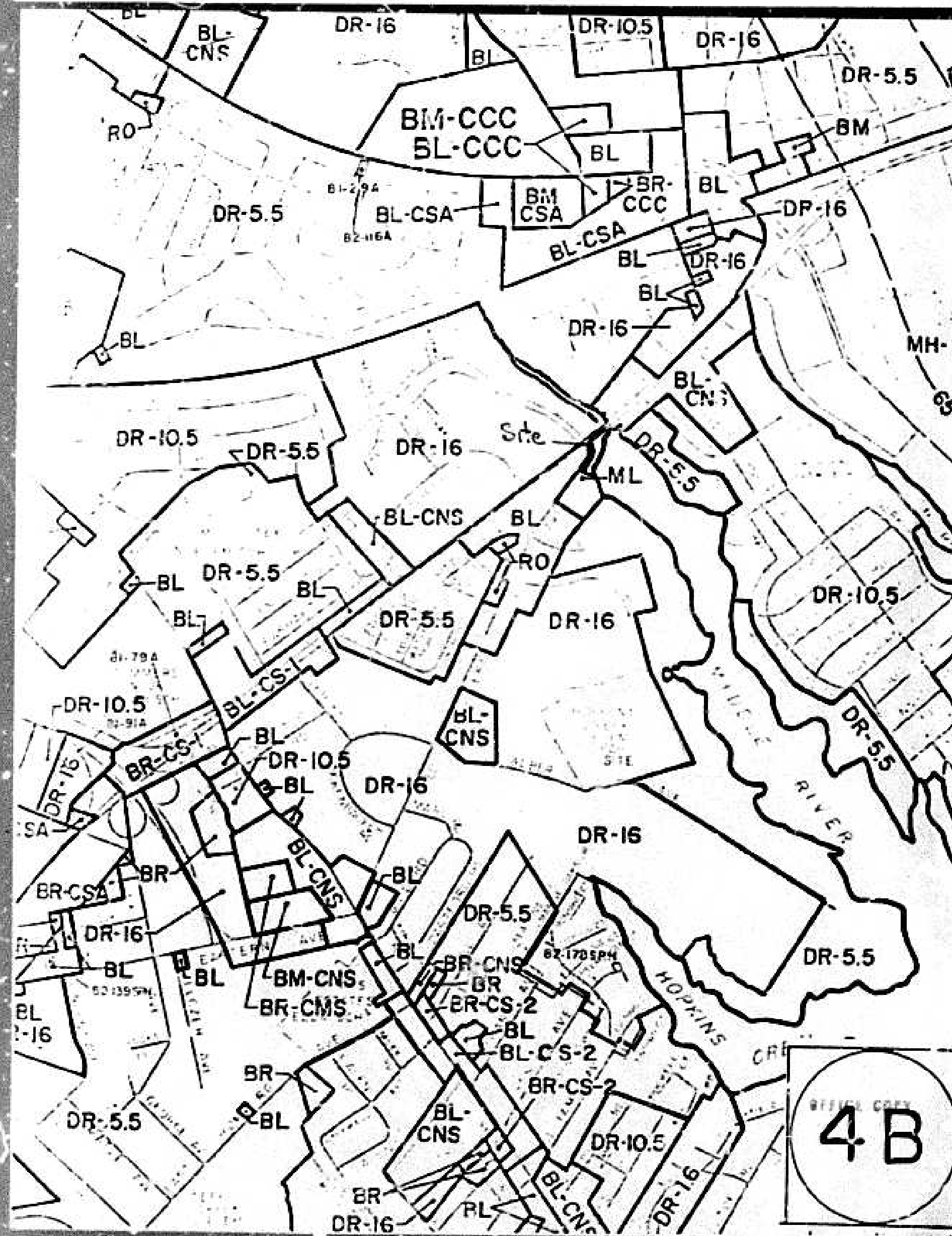
Any appeal from this decision must be in accordance with Rules 8-1 thru B-13 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Keith S. Franz, Acting Chairman.

Patricia Phipps

John L. Suder



[illegible]

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